

Serial No. 09/511,445
Group Art Unit: 1638

REMARKS/ARGUMENTS

Claim rejections under 35 USC § 103

The Examiner rejects Claims 5-6 and 10-17 under 35 U.S.C. 103(a) as being obvious over Gordon-Kamm et al. (U.S. Patent No. 6,284,947, issued September 4, 2001). The Examiner states that, "Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 5-6 and 10-17 of the instant application are directed to methods of increasing endoreduplication and increasing crop yield that require transforming a plant cell with an isolated wheat dwarf virus RepA polynucleotide, whereas claims 1-20 of U.S. Patent No. 6,284,947 are directed to methods of increasing transformation frequency of a plant cell and increasing crop yield that require transforming a plant cell with an isolated plant geminivirus replicase polynucleotide, including a polynucleotide that encodes a wheat dwarf virus replicase. Claims 5-6 and 10-17 of the instant application do not recite any method steps that distinguish the methods claimed in the instant application from the methods claimed in U.S. Patent No. 6,284,947."

Claim 16 has been cancelled. Claims 5, 6, 10-15, and 17 remain pending.

Applicants point out that "increasing endoreduplication" and "increasing transformation efficiency" are not the same thing nor is increasing endoreduplication obvious over increasing transformation efficiency. 35 U.S.C. 101 reads, "Whoever invents or discovers any new and useful process ... may obtain a patent therefore, subject to the conditions and requirements of this title." 35 U.S.C. 100 reads, "The term 'process' means process, art, or method, and includes a new use of a known process..."

Applicants point out that "Endoreduplication is a process involving one or more rounds of nuclear DNA replication in the absence of chromosomal and cellular division, leading to polyploidy." See page 3 of the specification. By definition, "absence of chromosomal and cellular division", increasing endoreduplication using wheat dwarf virus RepA is not obvious over increasing transformation efficiency

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using a geminivirus replicase polynucleotide. The U.S. Patent No. 6,284,947 states in column 1, lines 55-56, "There is evidence to suggest that cells must be dividing for transformation to occur."

In view of the above comments and amendments, withdrawal of the outstanding rejections and allowance of the remaining claims is respectfully requested.

Respectfully submitted.



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